

June 2011 Rental Project NOFA Workshop Questions and Answers

July 2011

2011 Limits Needed to Complete the Universal Rental Project Application

2011 HOME Rent Limits (Effective July 13, 2011)

http://www.hcd.ca.gov/fa/home/HOMERents_CALIFORNIA_Effective7-13-11.pdf

2011 HOME Income Limits – Will be available after July 13, 2011 on

<http://www.hcd.ca.gov/fa/home/homelimits.html>

TCAC

<http://www.treasurer.ca.gov/ctcac/rentincome/11/income/post20110513.pdf>- New construction projects and rehabilitation projects not currently receiving tax credits use this chart to fill in the 50% Income limits table on the UA Rents Worksheet.

<http://www.treasurer.ca.gov/ctcac/rentincome/11/income/pre20081231.pdf>

Rehabilitation projects currently receiving tax credits use this chart to fill in the 50% Income limits table on the UA Rents Worksheet.

<http://www.treasurer.ca.gov/ctcac/rentincome/11/rent/post20110531.pdf> - Can be used to find the 40% AMI limit for Deep Targeting projects.

Q: Can a jurisdiction use HOME Program Income (PI) to make a loan to a CHDO Project?

A: Yes; however, the total amount of HOME assistance to a particular project (i.e. State HOME, local HOME PI and HOME dollars from another HOME Participating Jurisdiction) cannot exceed the lower of a) the 221 (d) (3) per-unit subsidy limits for that project, or b) the amount proportional to the number of HOME units compared to all units. The current 221 (d) (3) limits can be found at: <http://www.hcd.ca.gov/fa/home/homelimits.html>.

Site Control

Q: How long will it take before a project can expect to receive its Authority to Use Grant Funds (AUGF)?

A: Depending on the nature of the environmental conditions on the site, generally speaking it will take 6-9 months to prepare and review a NEPA Environmental Assessment, and receive the AUGF. For State Recipient projects,

the AUGF is issued by the Department. For CHDO projects, the AUGF is issued by HUD. The initial State review of the Environmental Review Record will take a minimum of 30 days and up to 60 days depending on overall workload. Depending on the extent of necessary revisions, it may take another 30 to 90 days before the “Combined Notice” can be published, which starts a 30-day public comment/objection/review process. Remember that consultation with the State Office of Historic Preservation (SHPO) must be initiated by HCD for CHDO projects and by the local jurisdiction (not the consultant or the developer) for State Recipient projects. SHPO has at least 30 days to review the submittal.

Q: Is executing an extension on a site control document acceptable if done prior to receipt of the AUGF but before the current agreement expires?

A: Yes. No choice-limiting action has occurred if the extension and any payment for such extension occurs before the current term of the agreement expires.

Q: What was the cut-off score under the 2010 NOFA in order to get an application funded?

A: In 2010, State Recipient applications had to score at least 1428 (out of 1700 maximum possible points) to get funded. CHDO applicants who got funded out of the CHDO set-aside needed to score at least 1378. Although it is impossible to reliably predict this year’s scores, the cut off may be about the same as last year. Except for Torrance, Gardenia and Lancaster, the highest possible score is 1,650 points – thus a project losing more than 200 rating points is unlikely to be funded. Note: the median Community Need Score for rental projects is 310 points out of 450 points available, thus half of all possible applicants will lose 140 points just in Community Need. Please use the new, transparent, rating system to evaluate your chances of submitting a competitive application.

Applicant Capability

Q: If two developers will develop a project as a joint venture, can the experience of both developers be counted for Experience points?

A: In the Similar Project Experience category (200 points), the rental project experience of both developers on the development team can be counted as long as the same subsidized rental project is not listed twice on this form. Furthermore, the experience of another developer can also be counted if they will be providing financial guarantees to a project. The Department will require that all listed developers be actively involved in the project.

In the Housing and Community Development Experience category (50 points), only the applicant’s experience can be counted on this form, so the experience of a co-developer who is not the HOME applicant cannot be listed. In other words, if a CHDO application, only the CHDO’s experience can be listed.

Q: If we are applying for a Rental New Construction Project, does our experience with a Rental Rehabilitation project count, and vice versa?

A: Yes. See the instructions on each experience form for more information.

Q: Can the experience of individual developers on the development team be counted for experience points if the development firm itself does not have enough experience to qualify for points?

A: Yes, if the individual developer was directly involved as a developer (not an employee or consultant) with the completed project that qualifies for points, and if the application documents that this developer will also be directly involved with the proposed project as a developer (not an employee or consultant).

Q: If a missed project deadline occurs as a consequence of failure to secure tax credits or an equity investor in either 2009 or 2010, will these performance penalties be waived?

A: Yes, provided the Developer applied for tax credits or other replacement financing as soon as possible following the HOME award, i.e. the inability to receive a tax credit allocation was not due to not applying. For projects which received tax credit allocations in 2008 or earlier, but failed to obtain an adequate equity investor the Department will make a case by case determination whether the failure was or was not clearly within their control. In addition, there must have been no other causes of delay independent of the receipt of a tax credit allocation or adequate equity investment commitment. If there is any question about the Department's penalty for your projects, please contact Ferol Kimble (for State Recipients) or Laura Bateman (for CHDOs) for an advance determination.

Q: Will previously waived penalties count as missed project deadlines in calculating the amount of negative performance points to be restored based on the proportion of completed projects to missed project deadlines, (Note 1, Option B on p. 35 of the NOFA)?

A: No. Once the penalty for a particular missed milestone has been waived it remains waived in future calculations of negative points attributable to that project.

Q: How do I qualify for "Credit for other completed HOME projects", noted on page 39 of the NOFA (Note 1B)?

A: You must discuss your situation with Ferol Kimble (for State Recipients) or Laura Bateman (for CHDOs) prior to submitting your application. Projects will be considered "completed" for this purpose when the Notice of

Completion is filed or the Certificate of Occupancy is issued (for at least one building) IF Ferol or Laura receive these documents prior to the HOME application deadline.

State Objectives

Q: In a rehabilitation project, can the 50 points for the Deeper Affordability State Objective points be earned by proposing to eventually have a certain percentage of your tenants at 50% AMI or below due to unit turn-over over time?

A: Yes, but only if turn-over is projected to result in reaching the promised percentage in the first three years following completion of rehabilitation, and the methodology for calculating this rate of turnover is fully explained in the application.

Q: How do 4% noncompetitive federal tax credit projects qualify for the State Objective rating factor "100% Percent Financing Committed or Noncompetitive" and get credit for the permanent loan amount and estimated net tax credit proceeds for the Project Readiness Factor "Permanent Financing Commitments"?

A: Provide: a) Letter from a lender meeting the terms in "Permanent Financing Commitments" section of the HOME Supplement, b) statement in the application that the project does not need state tax credits, and c) letter from a knowledgeable 3rd party estimating the amount of net tax credit proceeds.

Q: Will a 4% tax credit project proposing the use of competitive state tax credits get credit in the Project Readiness Factor "Permanent Financing Commitments" for the permanent loan amount?

A: Yes, if the application contains the following: an explanation of how the project is feasible without state tax credits, a commitment that if state tax credits are not awarded that the project will apply for (and accept) noncompetitive federal tax credits in the next funding opportunity, and a second Universal application showing the feasibility of the project as a federal-only tax credit project

Q: Can capital reserves in a rental rehabilitation project count as permanent financing committed?

A: No.

Q: Can USDA projects targeting farmworkers also receive State Objective Special Needs points?

A: Projects proposing use of USDA Farm Labor funds can receive State Objective Special Needs Populations points.

Q: What changes have occurred to the Geographic Diversity/Fair Housing Choice State Objective?

A: See NOFA Amendment issued July 5, 2011.

Readiness

Market Study

Q: What is an acceptable range of adjustments permitted for projects meeting energy efficiency standards?

A: The Department cannot answer this question with any specificity – each market study, including its adjustments for comparable projects, will be evaluated on a case-by-case basis. Generally, adjustments related to meeting energy efficiency standards need to result in a direct reduction of tenant-paid utilities to count as an adjustment. Note also that TCAC Guidelines require an explanation of each adjustment and how the dollar amount of the adjustment was derived. For this particular adjustment it may be difficult to confirm the benefit to the tenant (i.e. lower energy costs), or that this characteristic is one for which a tenant is willing to pay more rent.

Q: Are there state standards for any adjustments, not only for energy efficiency?

A: No. HCD notes that adjustments vary widely for the same amenity, thus each adjustment will be carefully evaluated before determining the appropriate comparable rent. Market study should include a narrative explaining why each adjustment was made and how the dollar value was derived (TCAC Guidelines Section VIII(C)).

Q: Why is HCD so concerned about using as comparables units with the same number of bedrooms?

A: This concern is related to HCD's concerns about the validity of the adjustments used in evaluating comparables. A comparable of the same number of bedrooms is far more accurate than a comparable with lesser or greater bedrooms, requiring the use of an analyst's adjustment factor.

Q: For new construction projects applying for the additional \$1 million for Deep Targeting, is it necessary to do two market studies with one showing a market for the rents under the proposed Deep Targeting rent scenario?

A: If a project is applying for Deep Targeting funds, the Department expects that the market study will fully demonstrate the market for the proposed rent and unit mix under the Deep Targeting scenario, although it may be possible to do one market study which analyzes the market under both your Deep Targeting and Non-Deep Targeting scenarios. In this instance, it will be important to note in your market study where the analysis and outcomes is different between the two scenarios.

Appraisal

Q: Is an appraisal needed if the land is donated to the project?

A: No appraisal is needed, and the appraisal rating points will be awarded, if no land costs will be shown in the development budget, and there are no other financial consequences which would require that the Department assess the value of the land (e.g. not calculating a higher developer fee or a higher percentage of permanent financing committed due to land donation).

Q: What are the limits on Land Acquisition Costs (UA- Line 6, for new construction projects or UA Line 11 for rehabilitation projects)?

A: For purposes of this discussion, the HOME applicant, developer, owner, MGP and any affiliated entities are considered related parties. In all cases, reasonable carrying costs and the costs of capital improvements made by the developer or other related parties can be charged to the project and paid for with HOME funds.

In a sale between related parties, where the land acquisition cost (for new construction projects) or the Existing Improvements Cost (for rehabilitation projects), has decreased in value, the project may be charged the amount of the last arms-length transaction and the increment above the current appraised value must be paid for by tax credit equity or a junior public agency financing source charging no mandatory debt service.

Example: Developer currently owns the land. The land was purchased by Developer from an unrelated party for \$2 million and it is now worth \$1 million. The Developer wants to sell the land for \$2 million to the limited partnership that will own the project. The land can be sold for \$2 million with the increment above the appraised value (\$1 million) paid for with tax credit equity. In this context, tax credit equity is considered a public agency financing source which can be used to avoid having to take a loss on a sale due to declining property values.

In a sale between related parties, where the value of the property has increased, the amount charged to the project for acquisition, will be limited to the amount of the last arms-length transaction.

Example 1: Developer currently owns the land. Developer previously bought the land from an unrelated party for \$1 million and the current appraised value is now \$1.5 million. Developer cannot sell the land to the project partnership for more than \$1 million, (plus reasonable carrying costs and the cost of capital improvements made by the developer).

Example 2: City who is the HOME applicant currently owns the land. City previously bought the land from an unrelated party for \$1 million. Current appraised value is \$1.5 million. City cannot sell the land to the project partnership for more than \$1 million plus costs as discussed above.

In a sale between unrelated parties, acquisition costs can exceed current appraised value as long as the increment above appraised value is covered by tax credit equity or a junior public agency lender charging no mandatory debt service. For purposes of this discussion, tax credit equity can be considered a public agency financing source.

Example: Land is currently owned by an unrelated party. The current appraised value is \$1 million, but the proposed sales price is \$1.5 million. Since the City really wants this land developed because the land is located in a service-rich area, making it attractive for affordable housing development, the land can be purchased for \$1.5 million, with no more than \$1 million paid for by HOME, and the increment above appraised value (\$500,000) or more paid for by tax credit equity or a loan from the City junior to the HOME loan carrying no mandatory debt service.

See Summary chart below.

Seller and Buyer	Land Values	Cap on Acquisition Costs Paid by HOME	Increment Above Appraised Value	Reasonable Carrying Costs and Capital Improvements
Related Party	Decreased	Current appraised value	Paid for with tax credit equity or junior public financing with no mandatory debt service	Can be paid with HOME or other funds
Related Party	Increased	Amount of last arms length transaction	Can't be paid by anyone	Can be paid with HOME or other funds
Unrelated Party	Increased or Decreased	Current appraised value	Paid for with tax credit equity or junior public financing with no mandatory debt service	Can be paid with HOME or other funds

Phase I/II

Q: Will Phase I/II Updates be accepted?

A: The Phase I/II report must be prepared no earlier than 2009. However, if something on the site or the surrounding area has changed since then, you must prepare a new Phase I. In addition, please include with your application all known previous Phase I/II reports for the property. (Copies of older reports on compact disc are acceptable.)

Q: Can the Phase I and Phase II reports be prepared by different firms?

A: Yes.

Relocation

Q: In a rehabilitation project, if no temporary or permanent relocation is anticipated, should a General Information Notice (GIN) still be provided?

A: Yes. If relocation is later unexpectedly required, it is better for all parties, the Sponsor included, if the GIN has been provided.

Flood Plain

Q: How should a project with only landscaping and parking in the flood plain address this item?

A: In this situation, the HOME Supplement requires that the application contain “documentation confirming that the floodplain is incidental to the project”. If a project scores highly enough, HCD will work with you to determine whether the documentation is adequate and whether an 8-step or map revision process is still needed.

Q: How are points awarded for Local Government Approvals this year?

A: For new construction projects to gain all points for the Local Government Approvals item, the “Verification of Zoning and Other Required Local Approvals” form must be submitted with third party documentation provided to verify the reported status of required local government approvals which have been obtained: 85 points is assigned if the form shows that there is zoning for the intended use and 40 points is assigned for filling out the rest of the form and attaching documentation supporting the reported status of the required approvals which have been obtained. The documentation will not be reviewed for assigning any of the 125 points available for Local Government Approvals. (Note: no points will be deducted if an approval other than zoning is required, but has not yet been obtained.)

For rental rehabilitation, complete the Local Government Approvals Form and submit third party documentation for any required approvals that have already been obtained. (Note: no points will be deducted if a particular approval is required, but has not yet been obtained.)

For all applicants that score highly enough to be funded, HCD will analyze adequacy of the local government approval documentation when evaluating project feasibility.

Financial Feasibility

Q: Is a transition reserve needed due to proposed use of USDA one-year renewable rental subsidy commitments?

A: The Department will consult with USDA on a case-by-case basis but will generally assume that these commitments will be renewed. If an application scores highly enough, HCD will work with you to determine whether a transition reserve will be necessary.

Q: Can we have primary lender loans with terms of less than 30 years because project will not cash flow beyond Year 15.

A: Under these circumstances please provide us with two UA Cash Flow Worksheets carried out to 30 years; the first with the shorter amortized loan as you propose and the second with a 30-year amortized term. The Department will analyze both scenarios and work with you to make the project feasible for as long as possible.

Q: In sizing the amount needed for a transition reserve, can reasonable increases in rents be budgeted for?

A: Yes, use the standard 2.5% per year HCD assumption for rent increases.